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77TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 1295

JOE A. MUMFORD AND THE ESTATE OF W. C. MUMFORD

APRIL 30, 1942.—Ordered to be printed

Mr. ROSIER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 5563]

The Committee on Claims, to whom was referred the bill (H. R. 5563) for the relief of Joe A. Mumford and the estate of W. C. Mumford, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1813, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 1813, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 5563) for the relief of Joe A. Mumford and the estate of W. C. Mumford, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

Page 1, line 5, strike out the figures "\$5,946.55" and insert in lieu thereof the figures "\$1,946.55".

Page 1, line 8, after the name "Mumford", insert "in full settlement of all claims against the United States".

The purpose of the proposed legislation is to pay the sum of \$1,946.55 to Joe A. Mumford, of Brazoria County, Tex., for property damage and personal injuries, and to pay the sum of \$5,000 to the estate of W. C. Mumford, as compensation for his death, sustained when the car in which they were riding collided with an Army truck near Angleton, Tex., on June 9, 1941.

STATEMENT OF FACTS

During the night of June 9, 1941, a convoy of 33 Army trucks, proceeding in an easterly direction on Texas Route 111, made, pursuant to competent orders, a 10-minute halt near Midway, Tex. At about 11:15 p. m. the last truck in the convoy, which had been picking up the traffic guard posted along the route, was driven partly off the road to the right, about 1 mile west of Midfield, Tex., and stopped, with the left rear wheels resting on the pavement and the left rear corner of the truck body extending out over the pavement for a distance of 3 feet 11 inches. The black-out lights and taillights of the said truck were lighted. While the truck was standing in this position, a Chevrolet sedan, owned and operated by A. J. Mumford, of Angleton, Tex., with his brother, W. C. Mumford,

as passenger, approached from the rear at a speed of about 50 miles per hour and crashed into that part of the truck which projected out over the road, thereby giving rise to the damages that are the subject of the proposed legislation. A. J. Mumford is referred to as Joe A. Mumford in the bill. The road was dry and was paved with concrete and, at the time of the accident, the moon was shining through light clouds:

At the time of the investigation of the accident, the Government driver testified that he saw the convoy slow down and thought it was a slow-up in the convoy instead of a halt, and so did not try to pull entirely off the pavement; that he saw a reconnaissance car, which was preceding him, pull over to the side, and since, it appeared to him that one wheel of said car was still on the pavement, he pulled out in the same manner at an interval of about 50 yards; that they had been told to park off the pavement; that after halting he got out of the cab, checked around his truck, and then sat down on the left front fender, from which he was thrown by the collision; that he believed the accident happened about 3 minutes after they had stopped; that he saw no car coming up behind them; that he saw no other car pass the convoy in either direction after they had halted; that the tail-lights on his truck were operating and were lighted both before and after the accident.

A noncommissioned officer, who had been detailed as a traffic guard during the night convoy and who had been picked up by the aforesaid truck, testified that he was riding next to the tailboard on the left-hand side of the truck and was sleeping until the truck stopped; that he saw headlights coming down the road very fast; that he took his flashlight out of his belt and waved it at the car; that he had time only to wave it two or three times, and then jumped over to the side of the truck; that the civilian driver did not turn out in any way; that no car other than the one that struck them was in sight.

An Army Medical officer, who examined the body of W. C. Mumford when it was brought to the station hospital, at Camp Hulen, Tex., and also examined A. J. Mumford, testified that W. C. Mumford was dead on arrival at the hospital as a result of skull fracture and a badly lacerated left hand; that J. A. Mumford had sustained a fractured nose, a few small lacerations of the right leg; that his right knee was slightly swollen; that there appeared to be no fractures; that he complained of pain in the sternal region; that he stated to an officer in his [the medical officer's] presence that he was driving at a speed of about 50 miles per hour when the accident occurred; that he did not appear to be under the influence of alcohol; that a specimen of blood for determination of alcohol content was, however, taken. No statement is made as to the findings disclosed by an analysis of the blood, if such analysis was made.

After a careful consideration of all the evidence adduced in this case, it is the view of the War Department that the proximate cause of the accident was negligence on the part of the Government driver in that he stopped his vehicle with the left rear end of the same projecting out over the pavement where—especially at night—such would constitute a very definite traffic hazard. Notwithstanding the fact that taillights of the Army truck appear to have been burning at the time of the accident, it would seem not improbable that, because of the angle at which the truck was sitting with relation to the road, the taillights were not so clearly visible from the rear as they would have been had the truck been parallel with the road, and that the bright moonlight may also have tended to render the taillights less effective.

The War Department states that it will interpose no objection to the enactment of legislation compensating Joe A. Mumford and the estate of W. C. Mumford in such amounts as the Congress may deem proper. The War Department has made a thorough investigation and, in its report, it fully sets out this investigation.

Therefore, your committee recommends favorable consideration to this bill, as amended, and appends hereto the report of the War Department, together with other pertinent evidence.

WAR DEPARTMENT,
Washington, September 9, 1941.

HON. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives, Washington, D. C.*

DEAR MR. McGEHEE: The War Department will interpose no objection to the enactment of H. R. 5563, Seventy-seventh Congress, a bill which would pay the sum of \$5,946.55 to Joe A. Mumford, of Brazoria County, Tex., for property

damage and personal injuries, and the sum of \$5,000 to the estate of W. C. Mumford as compensation for his death, which injuries, property damage, and death resulted from a collision involving an Army truck near Angleton, Tex., on June 9, 1941.

During the night of June 9, 1941, a convoy of 33 Army trucks, proceeding in an easterly direction on Texas Route 111, made, pursuant to competent orders, a 10 3-minute halt near Midway, Tex. At about 11:15 p. m. the last truck in the convoy, which had been picking up the traffic guard posted along the route, was driven partly off the road to the right, about 1 mile west of Midfield, Tex., and stopped, with the left rear wheels resting on the pavement and the left rear corner of the truck body extending out over the pavement for a distance of 3 feet 11 inches. The black-out lights and taillights of the said truck were lighted. While the truck was standing in this position, a Chevrolet sedan, owned and operated by A. J. Mumford, of Angleton, Tex., with his brother, W. C. Mumford, as passenger, approached from the rear at a speed of about 50 miles per hour and crashed into that part of the truck which projected out over the road, thereby giving rise to the damages that are the subject of the proposed legislation. A. J. Mumford is referred to as Joe A. Mumford in the bill. The road was dry and was paved with concrete, and at the time of the accident the moon was shining through light clouds.

At the time of the investigation of the accident, the Government driver testified that he saw the convoy slow down and thought it was a slow-up in the convoy instead of a halt, and so did not try to pull entirely off the pavement; that he saw a reconnaissance car, which was preceding him, pull over to the side, and, since it appeared to him that one wheel of said car was still on the pavement, he pulled out in the same manner at an interval of about 50 yards; that they had been told to park off the pavement; that after halting he got out of the cab, checked around his truck, and then sat down on the left front fender, from which he was thrown by the collision; that he believed the accident happened about 3 minutes after they had stopped; that he saw no car coming up behind them; that he saw no other car pass the convoy in either direction after they had halted; that the taillights on his truck were operating and were lighted both before and after the accident.

A noncommissioned officer, who was in charge of the truck involved in the accident, testified that they had picked up the traffic detail posted at intersections, railroad crossings, etc., and had been following the reconnaissance car ahead at about 50 to 60 yards; that the tail of the convoy had slowed down several times after leaving Midway and at first the halt during which the accident occurred looked like a slow-up; that after they had stopped he got out of the cab and walked ahead to the reconnaissance car; that very soon afterward the collision occurred; that while traveling at the rear of the column they had continually signaled with flashlights vehicles approaching from the rear; that he saw no other cars passing in either direction at the time of the accident.

Another noncommissioned officer, who had been detailed as a traffic guard during the night convoy and who had been picked up by the aforesaid truck testified that he was riding next to the tailboard on the left-hand side of the truck and was sleeping until the truck stopped; that he saw headlights coming down the road very fast; that he took his flashlight out of his belt and waved it at the car; that he had time only to wave it two or three times, and then jumped over to the side of the truck; that the civilian driver did not turn out in any way; that no car other than the one that struck them was in sight.

The officer who was in command of the convoy testified that all drivers had been assembled and instructed that a halt of 10 minutes for every vehicle was to be made at Midway; that lights were to be put out (except black-out lights) immediately on halting; that, because of vehicles' closing up and then holding back to gain proper interval, there were several times when the tail of the column was nearly halted between Midway and Midfield; that this may have caused some doubt in the minds of drivers as to whether or not the slow-up as they approached Midfield was a halt. He further testified that the concrete road was dry and the visibility was very good; that the moon gave considerable light; that the taillights on the damaged truck were lighted and were visible at about 100 yards; that the outline of trucks parked beside the road was clearly visible in the moonlight from several hundred yards; that the two-lane road was straight and free from shadows.

A. J. Mumford, owner and driver of the Chevrolet sedan, testified that he was driving at 40 to 50 miles per hour and did not at any time see any obstruction; that it was his habit to drive in the right lane and with great care; that his first

knowledge that an accident had occurred was when he regained consciousness in an Army truck on the way to Camp Hulen, Tex.; that during the entire day he had taken no alcoholic liquors.

An Army Medical officer who examined the body of W. C. Mumford when it was brought to the station hospital, at Camp Hulen, Tex., and also examined A. J. Mumford, testified that W. C. Mumford was dead on arrival at the hospital as a result of skull fracture and a badly lacerated left hand; that A. J. Mumford had sustained a fractured nose, a few small lacerations of the right leg; that his right knee was slightly swollen; that there appeared to be no fractures; that he complained of pain in the sternal region; that he stated to an officer in his [the Medical officer's] presence that he was driving at a speed of about 50 miles per hour when the accident occurred; that he did not appear to be under the influence of alcohol; that a specimen of blood for determination of alcohol content was, however, taken. No statement is made as to the findings disclosed by an analysis of the blood, if such analysis was made.

Both the Chevrolet sedan and the Government truck were badly damaged by the accident, the sedan to such an extent as not to be considered worth repairing. Aside from the injuries to W. C. and A. J. Mumford, described above, lesser injuries were sustained by two enlisted men, passengers in the Government truck.

A bottle one-third full of an intoxicating liquor was found in the pocket of the Chevrolet sedan, but there is no evidence to the effect that the driver had been drinking.

No claim has been filed with the War Department growing out of this accident.

There is no information of record in the Department as to the ages of A. J. Mumford and W. C. Mumford, nor as to the beneficiaries of any payments that might be made to the former or to the estate of the latter. When such information has been secured it will be transmitted to the committee.

After a careful consideration of all the evidence adduced in this case, it is the view of the War Department that the proximate cause of the accident was negligence on the part of the Government driver in that he stopped his vehicle with the left rear end of the same projecting out over the pavement where, especially at night, such would constitute a very definite traffic hazard. Notwithstanding the fact that taillights of the Army truck appear to have been burning at the time of the accident, it would seem not improbable that, because of the angle at which the truck was sitting with relation to the road, the taillights were not so clearly visible from the rear as they would have been had the truck been parallel with the road, and that the bright moonlight may also have tended to render the taillights less effective.

Since, therefore, it appears that the accident resulted from no fault or negligence on the part of the civilian driver or his passenger but rather from negligence on the part of the driver of the Army vehicle, the Department while not prepared to pass upon the exact amount that should be allowed the claimants under the circumstances, will interpose no objection to the enactment of legislation compensating them in such amounts as the Congress may deem proper.

Copies of certain evidence in this case are enclosed for the information of the committee.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

WAR DEPARTMENT,
Washington, September 18, 1941.

HON. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives, Washington, D. C.*

DEAR MR. McGEHEE: In War Department letter of September 9, 1941, reporting on H. R. 5563, Seventy-seventh Congress, a bill for the relief of Joe A. Mumford and the estate of W. C. Mumford, it was stated that no information was of record in the Department as to the ages of A. J. Mumford and W. C. Mumford, nor as to the beneficiaries of any payments that might be made to the former or to the estate of the latter, but that when such information was obtained it would be furnished to the committee. Information in this connection is now available as follows:

W. C. Mumford was 47 years of age at the time of his death, and is survived by his widow, Mary Lee Mumford, age 21, who was wholly dependent upon him and who is the only surviving dependent who would be a beneficiary of payments to his estate.

The dependents of Joe A. Mumford (A. J. Mumford) are his wife, Mary Francis Mumford, age 32, wholly dependent upon him; Joe Dalton Mumford, son, age 6 months, wholly dependent upon him; and William Mumford, father, age 73, wholly dependent upon him. No information as to the age of Joe A. Mumford is of record in the Department.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

STATE OF TEXAS,

County of Brazoria, ss:

Before me, the undersigned authority, on this day personally appeared Mrs. Mary Lee Mumford, known to me to be the person whose name is subscribed hereinbelow, and who, after being by me first duly sworn, did, upon her oath, depose and say:

My name is Mary Lee Mumford and I reside in the town of Brazoria, in Brazoria County, Tex. I was well acquainted with W. C. Mumford, whose full name was William Carroll Mumford. W. C. Mumford was my husband and we lived there in Brazoria County, Tex., as husband and wife until the time of his death, and, therefore, I, the undersigned affiant, am the surviving wife and widow of W. C. Mumford, deceased. W. C. Mumford met his death on the 9th day of June 1941, in an automobile collision between Palacios and Bay City, in Matagorda County, Tex., his said death being caused by the negligence of the operators or persons in charge of a truck or vehicle belonging to the United States Army. I am not familiar, of my own personal knowledge, with the details of the accident, but, from what I have heard and the information that I have learned, I understand that the United States Army truck was parked on the paved highway in the night, without lights or warning signals of any character thereon.

W. C. Mumford died intestate, that is, without leaving any lawful will, and he did not have any children at any time and left surviving him, as his sole and only heir at law, myself, the said Mary Lee Mumford, as his surviving wife.

In addition thereto, the Probate Court of Brazoria County, Tex., appointed me as administratrix of the estate of the said W. C. Mumford, deceased, and I have duly qualified and am acting as such administratrix.

Prior to the death of my husband, the said W. C. Mumford, we lived in Angleton, Tex., and he was then employed by the Southwestern Cattle Raisers Association as a special officer and received a salary of \$190 per month. Mr. Mumford has been employed by the Southwestern Cattle Raisers Association for about 14 years. As above indicated, we lived in Angleton, Tex., and I was entirely dependent upon him for a livelihood. I do not own any separate property of my own, and did not have any income of any character, and I kept house, performing my duties as a housewife, and we did not own our home, but merely rented an apartment and, as above indicated, I was entirely dependent upon W. C. Mumford for my livelihood. I am now a widow and have no means of support.

And further affiant saith not.

(Mrs.) MARY LEE MUMFORD.

Sworn to and subscribed before me this 8th day of November 1941.

[SEAL]

SOPHIE B. HOEFLE, *Notary Public.*

STATE OF TEXAS,

County of Brazoria, ss:

Before me, the undersigned authority, on this day personally appeared Joe A. Mumford, who, being by me first duly sworn, upon his oath deposes and says:

My name is Joe A. Mumford, and I reside near Angleton, in Brazoria County, Tex. I am a brother of W. C. Mumford, deceased.

On or about the 9th day of June 1941 my brother, W. C. Mumford, and I were returning to Angleton, Tex., from Edna, Tex. We were proceeding along the highway between Ganada, Tex., and Bay City, Tex., on the right-hand side of the highway, at a speed of between 40 and 50 miles per hour. I had my headlights on, and was operating the car with ordinary caution due to the fact that I had seen a mule along the right-of-way near this point in going to Edna.

I struck a vehicle which I later learned to be an Army truck. This truck did not have any lights burning at the time that I hit it and I could see no lights up the road. I was not meeting any car at the time that I struck the Army truck.

I was driving a 1941 Chevrolet sport sedan which I had purchased on April 11, 1941, from Wright Chevrolet Co.

I never did see the truck until 2 or 3 weeks after the accident when I was shown the truck by a lieutenant at Camp Hulen, Tex.

My brother, W. C. Mumford, was riding in the front seat with me on the right-hand side of the car, and he was killed instantly. I did not regain consciousness until I was in the Army hospital and then only a few minutes and lost consciousness again and was carried to the Memorial Hospital in Houston, Harris County, Tex., where I was attended by Dr. James A. Hill.

My car was demolished and was in such a state that I only received a salvage price when I traded it for the car that I now own.

I remained in the hospital in Houston from the 10th day of June 1941, through the 14th day of June 1941. Since that time I have had to make several trips into Houston to see Dr. James A. Hill, and I am still under his care.

As a result of the accident, I have received injuries to my head, neck, nose, mouth, chest, left arm, and right leg. I am still troubled a great deal with my chest and neck, and I am unable to perform the duties of the job that I hold, and the doctor has not been able to ascertain how long it will be before I will recover.

I am employed by Col. R. C. Cudell. I cannot ride a horse for any length of time, and whenever I do ride, I suffer some pain in my chest and neck. I can no longer perform the duties of my job that I was performing prior to the time of this accident.

I received a sum of \$100 per month, together with my house, utilities, groceries, and automobile. I received this amount before the accident and I am still receiving the same amount. However, I do not know how long this will continue if my injuries do not improve.

I have a wife and a son, 7 months of age, which I must support; and I am also supporting my father, who is now 72 years of age. If I were to lose the job that I have at the present time, I would not be able to perform manual labor and earn enough to support these dependents.

I have incurred doctor's bill with Dr. James A. Hill, of Houston, Harris County, Tex., in the sum of \$17, ambulance bill in the sum of \$46.40, hospital bill in the sum of \$53.65, and Dr. Wm. C. Holt's bill in the sum of \$15. I received the sum of \$275 for my automobile in a trade-in on the car that I am now driving. I paid \$1,128.73 for the car that was wrecked when I purchased the same on April 11, 1941.

All of the above facts are true and correct to the best of my knowledge and belief.

JOE A. MUMFORD.

Sworn to and subscribed before me, the undersigned authority, by Joe A. Mumford, on this 29th day of October A. D. 1941, to certify which witness my hand and seal of office.

[SEAL]

QUILLIAN GARRISON, *Notary Public*.

STATE OF TEXAS,
County of Harris, ss:

Before me, the undersigned authority, on this day personally appeared Dr. James A. Hill, who, being by me first duly sworn, upon his oath deposes and says:

My name is Dr. James A. Hill. I am a licensed medical doctor in the State of Texas and live in Houston, Harris County, Tex. I have been practicing medicine in Texas for 45 years. I am a graduate of Tulane Medical School.

I am acquainted with Joe A. Mumford, who resides near Angleton, in Brazoria County, Tex. I have been treating him since on or about the 9th day of June 1941, on which date he received certain personal injuries as a result of an automobile accident, and he is still receiving medical attention from me.

As a result of the collision which he described to me, he suffered injuries to his head, neck, nose, mouth, chest, left arm, and right leg. He advised me that he had received first aid from a doctor in Angleton, Tex., and then came to the Memorial Hospital in Houston, Tex., on June 10, 1941, at which time I examined him. He was still suffering from quite severe traumatic shock, complaining with considerable pain in his chest and neck, and his nose and lip were badly bruised and lacerated.

He had characteristic symptoms of concussion of the brain, and considerable abrasions and bruises scattered over his body in general, with rather deep abrasions on the anterior surface of his right leg. Following X-ray examination, we

were unable to determine any special pathology, with the exception that there seemed to be a slight crack in the cartilage of his nose, without displacement. He was put to bed and his chest strapped up with adhesive plaster, and given mild sedatives with occasional narcotics to control the pain. He was kept in the hospital 5 or 6 days, and was allowed to return home, with instructions to stay in bed. He reported to my office June 30, at which time he was complaining of severe neuritis of his left arm, so much so that he was carrying it in his other hand most of the time, or with his thumb in the band of his trousers for support. He was also complaining of considerable pain in his chest at this time, together with his neck quite sore. He at that time stated that it was about his first day out, with the exception of walking around the ranch something like 30 or 40 minutes at a time.

Supplement report of today attached to affidavit following an examination of Mr. J. A. Mumford on October 29, 1941.

Mr. Mumford at this time is still suffering with a very definite neuritis, apparently arising from a cervical plexus which in all probability is more or less of a subchronic condition so far as an occasional recurrence of pain and discomfort. However, he may make a complete recovery if he will have some physiotherapy and X-ray treatments through the present winter season and when hot weather arrives next year he may make a complete recovery.

Respectfully submitted.

JAMES A. HILL, M. D.

STATE OF TEXAS,

County of Harris, ss:

Before me, the undersigned authority, a notary public in and for Harris County, Tex., appeared James A. Hill, M. D., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Witness my hand this 29th day of October A. D. 1941, at Houston, Tex.

[SEAL]

GERTRUDE VELTON, *Notary Public.*

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